

treason, if proved. The article we are about to adopt has nothing to do with defining what treason is, what act shall constitute treason, how it shall be tried, or anything else of the kind. The article under consideration fixes the punishment, when the Legislature has defined the crime, and the Court has found the party guilty.

Mr. JONES, of Somerset. The reply of the gentleman does not meet the objection which arises in my mind to the amendment proposed by the gentleman from Baltimore city (Mr. Stirling) to this article. That amendment is in these words; or rather it proposes to make the article read:

"That no conviction shall work corruption of blood, nor shall there be any forfeiture of the estate of any person for any crime except treason, and then only on conviction."

Now it does not state that the forfeiture which it is intended to provide for treason is for treason against the United States, or treason against the State of Maryland.

Mr. SANDS. I think that as we are framing a Constitution for the State of Maryland, and not for the United States, it must deal only, and solely, and exclusively with the State of Maryland, and can have nothing to do with the United States.

Mr. JONES, of Somerset. Then how is it possible for the gentleman to incorporate into the Constitution of Maryland the provisions of the act of 1777, which proposed to punish acts of treason against the United States?

Mr. SANDS. The act of 1777 was a State act, intended to punish treason against the State. Let me read the preamble to that act:

"Whereas the clemency of this State, towards such of its subjects and inhabitants as are inimical to its freedom and independence, has not had the desired effect of reclaiming them from their evil practices, but still pursuing the dark and criminal designs of enslaving America, they continue to encourage and promote the operations of our enemies; and whereas every hope of uniting to the interest of their country the affections of those its unnatural and implacable enemies is extinguished, and great disadvantages have arisen, and still more dangerous consequences may be apprehended, from a delay of effectual measures to suppress or remove them from the society of a free people, constrained by oppression to declare their independence, and determined at all events to maintain the same."

Mr. JONES, of Somerset. What is the enactment; what is the crime for which the punishment is prescribed?

Mr. SANDS. I will read the enactment:

"Be it therefore enacted, by the General Assembly of Maryland, That if any subject or inhabitant of this State shall within or without the same, and if any person whatever, being an inhabitant of any other of the United States, or any of them, shall, within

this State, levy war against the United States"—

Mr. JONES, of Somerset. That is all that is necessary; it is as I thought.

Mr. SANDS. I contemplate that treason against the State of Maryland shall comprehend levying war against the United States; that is what I want to legislate upon.

Mr. CLARKE. When was that act passed?

Mr. SANDS. In 1777.

Mr. CLARKE. Prior to the formation of the Constitution of the United States.

Mr. SANDS. Of course. But it is a State act exclusively. If gentlemen can show me anything in the Constitution of the United States which prevents Maryland from providing what she pleases in regard to treason against her, then I will admit the force of the objection.

Mr. JONES, of Somerset. It is precisely what I supposed it to be. The act was passed at a time when there was no power in this country, except in the several States, to punish treason. It was passed the year after the Declaration of Independence, when our nationality had not been recognized by any foreign power, when we were in the midst of a revolution. Those then in the several States who were in favor of the revolution had the control of the State governments; and in this State there was a revolutionary Convention, which was omnipotent, and had an army and a navy to enforce its behests. Yet there were persons living in the State, under the protection of that very revolutionary government, who were giving aid and comfort to the common enemy of the State and of the nation, and acknowledging their allegiance to the government of Great Britain. And it was to punish those persons that the revolutionary Convention of 1777 passed the act which has been read. It prescribed that those persons, who under those circumstances gave aid and comfort to the armies of Great Britain, should be held guilty of treason against the State of Maryland, and should be punished accordingly. And when the revolution was over, our independence acknowledged, and the Articles of Confederation formed, even then I believe the punishment of treason was left to the States severally. But when the Convention of 1787 met, the Articles of Confederation being found to not have answered the purpose for which they were entered into, the several States delegated to the Government of the United States, then proposed to be inaugurated, the punishment of the crime of treason against the United States. And they, therefore, necessarily deprived themselves of the right to punish the crime of treason against the Government of the United States, that right having been vested by them in another tribunal and jurisdiction. They went further, and defined the crime, the power to punish which they had thus delegated to the United States;